

## Message Text

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ORIGIN TRSE-00

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SP-02 COME-00 L-03 CIAE-00 INR-10 NSAE-00 DODE-00  
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APPROVED BY AF/W:TWMSMITH  
TREAS:XLI:SHANNES  
TREAS:IT:JLANGE  
TREAS:X:DLUBICK  
-C:RL:BRI  
STATE:AF/W:PCHAVEAS  
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FM SECSTATE WASHDC  
TO AMEMBASSY LAGOS

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E.O. 11652: N/A

TAGS: EFIN: EN

SUBJECT: TREASURY ASSISTANT SECRETARY LUBICK'S MEETING WITH  
PETROLEUM COMMISSIONER COLONEL MUHAMMED BUHARI FROM NIGERIA

REFERENCES: (A) LAGOS 06410; (B) STATE 127101

BEGIN SUMMARY: IN A JUNE 29 MEETING WITH ASSISTANT  
SECRETARY FOR TAX POLICY LUBICK, PETROLEUM COMMISSIONER  
BUHARI AND FIVE OTHER NIGERIAN REPRESENTATIVES RAISED THE  
ISSUE OF U.S. TAX CREDITS FOR NIGERIAN TAXES ON THE BASIS  
OF POSTED PRICES AND FOR PHILLIPS LNG EARNINGS. LUBICK  
SAID HE WAS PESSIMISTIC THAT THE IRS WOULD ALLOW U.S. IN-  
COME TAX CREDIT TO U.S. OIL COMPANIES PAYING NIGERIAN TAXES  
BASED ON POSTED OIL PRICES. LUBICK WAS ALSO PESSIMISTIC  
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THAT PHILLIPS PETROLEUM COULD BE EXEMPT FROM IRS CODE  
SECTION 902 REQUIREMENTS THAT EQUITY HOLDINGS BE AT LEAST  
10 PERCENT TO RECEIVE U.S. TAX CREDIT FOR NIGERIAN INCOME  
TAXES. LUBICK RAISED THE MATTER OF THE EXPIRING TAX TREATY  
BETWEEN THE U.S. AND NIGERIA. BUHARI SAID HE WOULD LOOK  
INTO THIS FURTHER. ALSO PRESENT AT THE MEETING WERE:  
F.R.A. MARINHO, MANAGING DIRECTOR OF NIGERIAN NATIONAL

PETROLEUM CORPORATION; S.M. AKPE, HEAD OF GAS AND

PETROCHEMICALS DIVISION, NNPC; O.A. OKANLA, MANAGER OF PETROLEUM INSPECTORATE, NNPC; Z.O. IDOWU, MANAGER OF THE LEGAL DIVISION, NNPC; J.J. OKPIEYI, HEAD OF THE PRODUCT MARKETING DIVISION, NNPC. END SUMMARY.

1. LUBICK BEGAN BY ASKING ABOUT A TELEX REPORT THAT NIGERIA WAS TERMINATING ITS TAX TREATY WITH THE U.S. BUHARI SAID THAT HE DID NOT KNOW ABOUT ANY SUCH TERMINATION AND THAT HE WOULD INFORM THE TREASURY AFTER HE RETURNED TO NIGERIA.

2. BUHARI TURNED TO THE QUESTION OF WHETHER NIGERIAN TAXES ON U.S. OIL COMPANIES ARE CREDITABLE TAXES FOR U.S. INCOME TAX PURPOSES. HE EMPHASIZED THAT THE U.S. HAS SEVEN COMPANIES IN NIGERIA THAT PRODUCE TOGETHER ABOUT 700,000 DOLS PER DAY. NIGERIA WELCOMES FOREIGN CAPITAL, AND THIS YEAR ALONE THERE HAS BEEN AN INCREASE IN INVESTMENT OF 200 MILLION DOLS BECAUSE OF INCENTIVES OFFERED BY THE NIGERIAN GOVERNMENT. PROFIT MARGINS IN NIGERIA ARE LARGER THAN ANYWHERE ELSE FOR THE U.S. COMPANIES. THERE IS A GENEROUS TECHNICAL FEE ALLOWANCE. BOTH NIGERIANS AND U.S. COMPANIES AGREE THAT IT WOULD BE PROFITABLE TO CONTINUE OPERATIONS IN NIGERIA, BUT IF THE RULING PROBLEM ISN'T RESOLVED, U.S. PARTICIPATION IN PETROLEUM PRODUCTION UNCLASSIFIED

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WOULD BE JEOPARDIZED. HE ASKED THAT TREASURY TAKE THESE FACTORS INTO ACCOUNT IN DETERMINING WHETHER THE NIGERIAN TAXES ARE CREDITABLE.

3. LUBICK RESPONDED BY SAYING THAT THE U.S. COMPANIES HAVE FACED FOREIGN TAX CREDIT PROBLEMS ELSEWHERE--INDONESIA, SAUDI ARABIA, LIBYA, AND IRAN. LUBICK SAID THE IRS RULES ARE BASED ON STATUTORY REQUIREMENTS AND ALTHOUGH TREASURY IS INVOLVED FROM A TAX POLICY STANDPOINT IT IS NOT FREE TO WAIVE STATUTORY REQUIREMENTS. IN THIS REGARD, THE IRS RULINGS WHICH INVOLVE SAUDI ARABIA, LIBYA, AND INDONESIA SHOULD BE EXAMINED; THEY INVOLVE ISSUES AND PRINCIPLES OF GENERAL APPLICATION.

4. LUBICK INFORMED THE NIGERIANS THAT THE IRS HAS AGREED THAT REPRESENTATIVES OF THE FMG WOULD BE ALLOWED TO OBSERVE DISCUSSIONS BETWEEN IRS AND A TAXPAYER (OIL COMPANY) INVOLVING FOREIGN TAX CREDITS PROVIDED THE TAXPAYER DECIDES HE WANTS SOMEONE ELSE PRESENT.

5. THE MANAGING DIRECTOR OF THE NIGERIAN PETROLEUM CORPORATION, F.R. A. MARINHO NEXT PRESENTED THE PROBLEM OF

PHILLIPS TAXES ON LNG EARNINGS. SECTION 902 OF THE U.S.  
IRS CODE REQUIRES PHILLIPS PETROLEUM TO HOLD A MINIMUM OF

10 PERCENT VOTING STOCK IN ORDER FOR TAXES PAID IN NIGERIA  
TO QUALIFY FOR CREDIT AGAINST US TAXES. LUBICK COMMENTED  
THAT THIS 10 PERCENT VOTING STOCK REQUIREMENT WILL  
PROBABLY NOT BE CHANGED BY CONGRESS.

6. DR. MARINHO THEN SUGGESTED THAT BOTH THE US AND  
THE NIGERIANS LOOK FOR A WAY TO GO AROUND THIS REQUIREMENT.  
LUBICK SAID THAT PARTNERSHIPS, FOR EXAMPLE, ARE NOT  
SUBJECT TO THE VOTING STOCK RESTRICTIONS. IT WAS  
DECIDED THAT SOME SORT OF RESTRUCTURING MIGHT SATISFY  
THE REQUIREMENT.  
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7. BUHARI THEN ASKED WHAT OTHER SOURCES OF PROJECT  
FINANCING ARE AVAILABLE FROM THE US, SUCH AS LOANS,  
OR GUARANTEES. THE DIRECTOR OF THE TREASURY OFFICE  
OF TRADE AND FINANCE, JOHN LANGE, SPOKE BRIEFLY OF  
THE VARIOUS EX-IM PROJECTS UNDER CONSIDERATION FOR  
NIGERIA--PETROCHEMICALS, AIRFIELDS, AND COMMUNICATIONS.  
THE DISCUSSION ENDED WITH BUHARI SAYING AGAIN THAT  
US INVESTMENT AND ASSISTANCE IS CONTINUALLY WELCOME.  
CHRISTOPHER

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## Message Attributes

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